

Senate Bill No. 1301

CHAPTER 455

An act to add Section 4064.5 to the Business and Professions Code, relating to pharmacy.

[Approved by Governor September 22, 2012. Filed with
Secretary of State September 22, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1301, Hernandez. Prescription drugs: 90-day supply.

Existing law, the Pharmacy Law, provides for the licensure and regulation of the practice of pharmacy by the California State Board of Pharmacy. Existing law prohibits a person from furnishing a dangerous drug except upon the prescription of specified practitioners, except as specified. Existing law authorizes a pharmacist filling a prescription order for a drug product to substitute a generic drug product or a drug product with a different form of medication having the same active chemical ingredients of equivalent strength and duration of therapy as the prescribed drug product, subject to specified requirements. Existing law also authorizes a pharmacist to refill a prescription for a dangerous drug without the prescriber's authorization under specified circumstances.

This bill would authorize a pharmacist to dispense not more than a 90-day supply of a dangerous drug other than a controlled substance pursuant to a valid prescription if the patient has completed an initial 30-day supply of the drug, except as specified, the pharmacist is exercising his or her professional judgment, the pharmacist dispenses no more than the total amount prescribed, including refills, and the prescriber has not specified on the prescription that dispensing the prescription in an initial amount followed by periodic refills is medically necessary. The bill would prohibit a pharmacist from dispensing a dangerous drug pursuant to these provisions if the prescriber indicates "No change to quantity" or words of similar meaning, as specified. The bill would require a pharmacist dispensing an increased supply of a dangerous drug pursuant to these provisions to notify the prescriber of the increase in the quantity of dosage units dispensed. The bill would provide that these provisions are not applicable to psychotropic medication or psychotropic drugs, as described.

The people of the State of California do enact as follows:

SECTION 1. Section 4064.5 is added to the Business and Professions Code, to read:

4064.5. (a) A pharmacist may dispense not more than a 90-day supply of a dangerous drug other than a controlled substance pursuant to a valid prescription that specifies an initial quantity of less than a 90-day supply followed by periodic refills of that amount if all of the following requirements are satisfied:

(1) The patient has completed an initial 30-day supply of the dangerous drug.

(2) The total quantity of dosage units dispensed does not exceed the total quantity of dosage units authorized by the prescriber on the prescription, including refills.

(3) The prescriber has not specified on the prescription that dispensing the prescription in an initial amount followed by periodic refills is medically necessary.

(4) The pharmacist is exercising his or her professional judgment.

(b) For purposes of this section, if the prescription continues the same medication as previously dispensed in a 90-day supply, the initial 30-day supply under paragraph (1) of subdivision (a) is not required.

(c) A pharmacist dispensing an increased supply of a dangerous drug pursuant to this section shall notify the prescriber of the increase in the quantity of dosage units dispensed.

(d) In no case shall a pharmacist dispense a greater supply of a dangerous drug pursuant to this section if the prescriber personally indicates, either orally or in his or her own handwriting, "No change to quantity," or words of similar meaning. Nothing in this subdivision shall prohibit a prescriber from checking a box on a prescription marked "No change to quantity," provided that the prescriber personally initials the box or checkmark. To indicate that an increased supply shall not be dispensed pursuant to this section for an electronic data transmission prescription as defined in subdivision (c) of Section 4040, a prescriber may indicate "No change to quantity," or words of similar meaning, in the prescription as transmitted by electronic data, or may check a box marked on the prescription "No change to quantity." In either instance, it shall not be required that the prohibition on an increased supply be manually initialed by the prescriber.

(e) This section shall not apply to psychotropic medication or psychotropic drugs as described in subdivision (d) of Section 369.5 of the Welfare and Institutions Code.

(f) Nothing in this section shall be construed to require a health care service plan, health insurer, workers' compensation insurance plan, pharmacy benefits manager, or any other person or entity, including, but not limited to, a state program or state employer, to provide coverage for a dangerous drug in a manner inconsistent with a beneficiary's plan benefit.